

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15cv0600-FDW**

ALFRED A. ADAMS,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
CARLTON JOYNER, et al,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court upon initial review of Petitioner Alfred A. Adams's pro se Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Doc. No. 1.) Also before the Court are Petitioner's Motion Notice and Demand for Trustees (Doc. No. 2) and Motion Notice and Demand for Appointing and Designating the United States District Court and Officers of the United States Courts as Trustees (Doc. No. 3).

I. PROCEDURAL HISTORY

Petitioner is a prisoner of the State of North Carolina. Petitioner's § 2254 Petition was received and docketed in the United States District Court for the Eastern District of North Carolina on November 9, 2015. (Doc. No. 1.) Upon receipt of the Petition, that court mailed Petitioner a notice of deficiency alerting him that he was required to pay a \$5.00 filing fee or file an application to proceed without prepayment of fees and affidavit of indigency. (Doc. No. 5.) Petitioner was given until November 30, 2015 to comply with the court's order. (Doc. No. 5.)

On December 9, 2015, the Petition and accompanying Motions were transferred to this Court, where venue is proper based upon Petitioner's incarceration for a conviction in

Mecklenburg County Superior Court. (Transfer Order 1, Doc. No. 6.) Petitioner had not paid the filing fee or filed an application to proceed without prepayment of fees and affidavit of indigency by that date.

Upon receipt of the Petition and Motions, this Court mailed Petitioner another notice of deficiency, giving him until January 4, 2016 to file an application to proceed without prepayment of fees and affidavit or pay the filing fee of \$5.00. (Doc. No. 8.) As of the filing of this Order, Petitioner has done neither.

II. DISCUSSION

Federal law requires that a petitioner seeking habeas review of his state conviction and/or sentence in federal district court pay a filing fee in the amount of \$5.00 or be granted leave to proceed without prepayment of fees and costs. To establish an inability to pay, the petitioner must provide the court with an affidavit of indigency and “a certified copy of the trust fund account statement (or the institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint.” 28 U.S.C. § 1915(a)(2).

Petitioner has had more than sufficient time to comply with 28 U.S.C. § 1915(a)(2) and the Court’s December 9, 2015 Order, but has failed to do so. Therefore, the Court will dismiss the habeas petition without prejudice to Petitioner’s ability to refile it, along with the \$5.00 filing fee or an application to proceed without prepayment of fees and affidavit.


III. ORDER

IT IS, THEREFORE, ORDERED that the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. No. 1) is **DISMISSED without prejudice**. It is **FURTHER ORDERED** that Petitioner’s Motion Notice and Demand for Trustees (Doc. No. 2) and Motion

Notice and Demand for Appointing and Designating the United States District Court and
Officers of the United States Courts as Trustees (Doc. No. 3) are **DISMISSED**.

SO ORDERED.

Signed: May 18, 2016



Frank D. Whitney
Chief United States District Judge

